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C O N F I D E N T I A L SECTION 01 OF 04 OTTAWA 000268

SIPDIS

DEPARTMENT FOR ISN/CPI - L. MEYER

E.O. 12958: DECL: 04/03/2019

TAGS: [PREL](#) [PARM](#) [KNNP](#) [PINR](#) [CA](#)

SUBJECT: CANADA SEEKS U.S. ADVICE TO REINVIGORATE ITS
COUNTER-PROLIFERATION FRAMEWORK

REF: A. 08 OTTAWA 1245

[1](#)B. 08 STATE 99000

[1](#)C. 08 STATE 97505

[1](#)D. 08 OTTAWA 968

Classified By: PolMinCouns Scott Bellard, reasons 1.4 (b) and (d).

[1](#)1. (U) This is an action request -- see para 4.

[1](#)2. (C) Department of Foreign Affairs and International Trade (DFAIT) Senior Policy Officer David MacDuff noted on April 1 that the government had extended the deadline from mid-December 2008 to early June 2009 for senior officials to brief the Cabinet on an inter-agency effort to "reinvigorate" Canada's counter-proliferation regime (reftels). Canada seeks additional advice from the U.S. on how to improve its domestic counter-proliferation framework, he said, with a particular emphasis on immigration, shipment of goods, end-use verification, and access to facilities. The drafters hope to have all advice in hand before they begin writing in earnest on April 15, according to MacDuff.

[1](#)3. (C) DFAIT will circulate the reinvigorated draft counter-proliferation regime to the relevant departments and agencies for review May 1-30, before Cabinet considers it as early as the first week of June. If all goes to plan, and there is not another federal election in the meantime, Parliament could pass it into the law by the end of the year, he observed. MacDuff provided four pages of questions that he asked Embassy to convey to State in the hope that U.S. subject matter experts would respond with detailed advice for their Canadian counterparts. Pol/miloff reminded MacDuff of ref b paper from State officials.

[1](#)4. (SBU) Action request: Embassy requests that State's subject matter experts take advantage of this opportunity to shape Canadian counter-proliferation policy outcomes by coordinating responses to the many questions posed in para 5, despite the extremely tight deadline of April 15.

[1](#)5. (SBU) BEGIN TEXT

Questions for Counter-Proliferation Policy Demarche

The Government of Canada is currently conducting an inter-departmental review of its framework to counter the proliferation of weapons of mass destruction, their delivery systems, and related materials. Our participating departments and agencies (covering areas such as immigration, customs, law enforcement, and intelligence) have prepared the following set of questions to learn more about your counter-proliferation framework and the tools available to your officials. Your responses will help to inform Canada's

policy development and strengthen our ability to work with on our common counter-proliferation aims.

Overall Counter-Proliferation Framework

1. Does your government have specific legislation (e.g. a Counter-Proliferation Act) that provides tools for your officials to prevent and prosecute the proliferation of WMD? If so, how is proliferation defined in your legislation and what activities are included? Please provide the link or document if possible.

2. Does your government have an inter-agency-wide committee structure that coordinates counter-proliferation efforts?

3. Do you currently have a counter-proliferation policy reform process under way? If so, please indicate what aspects of your CP framework are being improved.

Immigration Legislative/Policy

Framework

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1. Do you have specific provisions in your immigration legislation (or other related legislation) regarding the proliferation of WMD, on which they can base a denial of entry to an individual?

2. If so, how are these provisions worded and what act are they found in? If there are no specific legislative provisions dealing with proliferation of WMD, how do they

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deal with it (e.g. do they have a "catch all" provision, jurisprudence, etc)?

3. Is your counter proliferation policy or legislation discretionary? That is, do you apply it to all countries or consider individuals from a certain country to pose a greater risk than individuals from another country? If so, can you share your list of countries?

4. Does legislation/jurisprudence render those deemed as proliferators permanently inadmissible?

Admissibility/Screening of Immigration Applications

5. Does your government routinely vet visa applicants for proliferation?

6. If so, generally, on what grounds are applicants found inadmissible?

7. If so, how do you define proliferation activities that might render one inadmissible and what is the relevant legislation on which inadmissibility is based?

8. What is the legal threshold that has to be met in order to find an individual inadmissible for posing a proliferation risk/engaging in the proliferation of WMD? For example, in Canada it is "reasonable grounds to believe".

9. What would you define as engaging in the proliferation of WMD? (e.g. providing material assistance; technological know-how; directly working for a country's WMD program; proliferation finance; brokering)

Categories of Immigrants

10. Is this policy/legislation applied equally to visitors, students, workers and permanent residents? If not, what are the differences in screening visitors, students and workers versus screening permanent residents?

11. Are there any special screening procedures in place for students?

International Treaties

¶12. Would your government deny entry to a person (e.g. scientist, engineer, etc) who works for the WMD program of a country that has not ratified the international treaties aimed at preventing the proliferation of WMD? (e.g. Non-Proliferation Treaty)

Shipment of Goods

Export Controls - Catch-All/End-Use Controls

¶1. Please describe how your country implements export controls for items not on an official list of controlled goods, technology and services but still assessed to be of proliferation concern (i.e. "catch-all" or "end-use" controls). What is the process by which your "catch-all" is triggered?

For example, how would your country address the following situation: A shipment of seismic monitoring equipment is to be made to a country with a nuclear program of concern. The items are not controlled under your country's controlled goods lists, but the equipment is assessed by seismic experts as having nuclear weapon testing applications.

¶2. What successes and challenges have you encountered in implementing "catch-alls"?

For example, any challenges in using intelligence as court evidence.

¶3. Does your country maintain any entity lists related to export controls? If so, could you describe them?

Export Controls - Entity Lists

¶4. What successes and challenges have you encountered in using, sharing and maintaining such lists?

For example, how would your country address the following situation: An entity's application for an export licence is denied. It subsequently changes its name and a new application is submitted.

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Export Controls - Withdrawals

¶5. What is your country's approach to export application withdrawals (i.e. where a prospective exporter withdraws their application before an official decision is made regarding approval or denial)? Do you ever encourage moral suasion that may result in the withdrawal of an application as opposed to denying permits?

¶6. Do you track export application withdrawals in any way (in terms of domestic applicant, end user or goods)? If so how is the information used and do you share it with border, law enforcement and intelligence agencies?

Brokering

¶7. Please describe your country's process for investigating and prosecuting brokering offenses, particularly those involving:

(a) brokering activities carried out in your national territory facilitating transfers between two foreign countries; and (b) nationals of your country conducting brokering activities outside of your national territory for transfers between two foreign countries.

¶8. What successes and challenges have you encountered in this process?

¶9. Does your country require brokers to register in a national registry? Which government department or agency manages this registry?

Re- Export Authorizations

¶10. Do you have laws and regulations controlling re-exports? If so, please describe them, including their scope (i.e. which items are covered) and their life span coverage (i.e. is authorization required for further re-export from a third destination to a fourth destination?)

¶11. How are these controls implemented and enforced?

Resource Implications

¶12. Approximately how many export, brokering and re-export license or permit applications do you receive annually? What ratio are withdrawn, denied or approved?

¶13. How many licensing or permit officers do you have to manage these applications?

¶14. Is compliance and enforcement handled in the same group or another entity? If handled by another entity, what resources are dedicated to compliance and enforcement?

End Use Verification

¶1. Do you conduct post shipment end use/end user verifications?

¶2. Is there legislative authority to conduct such verifications? Please elaborate.

¶3. What kind of training do verification officers receive?

¶4. What verification activities are carried out during a verification check (documentation reviews, physical examination of premises and/or equipment, other)?

¶5. Are only licencable commodities (i.e. those goods for which a permit has been issued) verified? Do you conduct end use checks on Watch List (dual use) goods?

¶6. Are verification checks included as a licence/permit condition?

¶7. What selection criteria are used to select companies/goods for verification?

¶8. Is advance notification required/provided to foreign countries and/or companies that are the subject of verifications? Do you enter into any bilateral agreements

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with countries to permit such verifications? If so, in what form and by whom?

¶9. What actions are taken if a country or company refuses to allow the verification?

¶10. Are the results of verifications used in future permit/licence application requests?

¶11. Are there penalties for non-compliance? If so, what are they (e.g. denial of export privileges, fines, Watch lists) and what is the legislative basis for their application? How are they assessed and by whom? Against who are they assessed - exporter, consignee/end user?

Access to facilities

¶1. Which categories of facilities are considered sensitive and require appropriate security screening for access? (a) government science and technology laboratories (defence, health, agriculture, other?); (b) government departments; (c) sensitive industries (eg. nuclear, chemical related); (d) university research facilities; (e) government/industry partnership related (i.e. joint funded);

¶2. What is considered in determining sensitivity of a facility? (a) classified work being carried out; (b) technology availability; (c) access to expertise

¶3. Does your government have the right to approve access by foreigners to all of your sensitive facilities?

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